IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 22748 of 2007(G)

PETITIONER:

D.PADMAKUMAR, KALATHIL HOUSE,
ALUMPEEDIKA P.O., OACHIRA, KOLLAM.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

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1. STATE OF KERALA,
REP.BY SECRETARY, DEPARTMENT OF EXCISE,
KERALA GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.

3. THE ASSISTANT EXCISE COMMISSIONER,
KOLLAM.

4. DISTRICT COLLECTOR, KOLLAM.

5. JAYACHANDRAN,
TS NO.62, ASHUPATHRY MUKKU, KARUNAGAPPALLY,
KOLLAM.
RESIDING AT : MADATHIL HOUSE, KIZHEKKETHIL,
KALLELIBHAGAM PO, KARUNAGAPALLY.

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6. THULASIDHARA PILLAI,
TS NO.63, NEELIKULAM, KARUNAGAPPALLY, KOLLAM.
RESIDING AT: KARTHIKA, EDAKADU PO,PORUVAZHI,
KUNNATHUR TALUK, KOLLAM.

R1 TO R4 BY GOVERNMENT PLEADER (SHRI P.K. RAVIKRISHNAN)

R5 & R6 BY ADV. SRI.C.C.THOMAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) NO.22748 OF 2007 G

PETITIONER'S EXHIBITS:

EXT.P1 COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER TO SECOND RESPONDENT DATED 20.6.2007 POINTING OUT THE ILLEGAL CONDUCT OF TODDY SHOPS.

EXT.P2 COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER TO 3RD RESPONDENT DATED 20.6.2007 POINTING OUT THE ILLEGAL CONDUCT OF TODDY SHOPS.

EXT.P3 COPY OF THE REPRESENTATION SUBMITTED BY PETITIONER TO THE FOURTH RESPONDENT DATED 20.6.2007 POINTING OUT THE ILLEGAL CONDUCT OF TODDY SHOPS.

RESPONDENTS EXHIBITS: NIL.

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

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Dated this the 24th September, 2007

JUDGMENT

Petitioner has approached this Court seeking a mandamus to command respondents 1 to 4 to take necessary steps to close T.S. Nos. 61, 62 and 63 of Karunagapally Excise Range and to ensure that respondents 5 and 6 or others do not conduct toddy shops in the places in which they are presently located. There is another prayer to declare that the grant of licences to conduct toddy shop Nos. 61, 62 and 63 of Karunagapally Excise Range in favour of respondents 5 and 6 are illegal, and that respondents 5 and 6 or others are not entitled to conduct the said toddy shops and quash the orders granting licences to the said toddy shops. There is yet another prayer to direct respondents 2 and 3 to consider and take appropriate action on Exts.P1 and p3 within a time limit as may be specified by this Court.

2. Heard the learned counsel for the petitioner, respondents 5 and 6 besides the learned Government Pleader.

Petitioner has anyway approached the second respondent by filing Ext.P1. The Writ Petition is disposed of directing the second respondent to consider and take a decision on Ext.P1 in accordance with law after affording an opportunity of hearing to the petitioner, respondents 5 and 6 and any other person who may be affected, within a period of one month from the date of receipt of a copy of this Judgment. I make it clear that I have not pronounced on the power of the fourth respondent to exercise the powers available to him under Section 54 of the Kerala Abkari Act, if the conditions warranting the exercise of the said power exists.

K. M. JOSEPH, JUDGE

kbk.